

D10

U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

APR 12 2004

FILE: LIN 03 181 52605 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(Q) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(Q)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Elizabeth O'Brien*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**PUBLIC COPY**

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Nebraska Service Center. An untimely appeal was filed. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner, Brazenhead Irish Pub, filed a Form I-129, Petition for a Nonimmigrant Worker, on May 16, 2003, seeking Q-1 classification of the beneficiary under section 101(a)(15)(Q) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(Q) as a participant in an international cultural exchange program to employ him as an assistant bar manager in a restaurant for a period of one year.

The director denied the petition, finding that the petitioner failed to submit sufficient documentation to establish that the requirements of Title 8, Code of Federal Regulations, Parts 214.2(q)(3)(iii) and 214.2(q)(4)(ii) had been met.

On appeal, counsel submits a brief and additional documentation.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) states the following regarding time restrictions for appeals filed with the AAO:

The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

If the director's decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

In the instant case, the director issued the decision dismissing the petition on October 24, 2003. The record contains the envelope used to mail the appeal packet. The envelope contains two Airborne Express mailing labels that indicate that counsel for the petitioner mailed an initial appeal to AAO on November 21, 2003 and again on December 3, 2003. According to CIS records, CIS rejected the petitioner's appeal on November 25, 2003 because the appeal form was unsigned. The petitioner subsequently filed a signed appeal form on December 4, 2003, 41 days after the denial notice was issued. The appeal was filed and received after the expiration of the 30-day period allowed for filing appeal. Consequently, the AAO must reject the petitioner's appeal as untimely filed. 8 C.F.R. § 103.3(a)(2)(B)(1).

**ORDER:** The appeal is rejected.